



303283

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
TAZEWELL COUNTY, ILLINOIS

CITY OF PEKIN, an Illinois Municipal  
Corporation,

Plaintiff,

vs.

FRANK ROSENBERG, INC., an Illinois  
Corporation,

Defendant.

80-E-879

**FILED**  
APR 24 1980

*Blanche J. Davies*

COMPLAINT FOR MANDATORY INJUNCTION  
TAZEWELL COUNTY CIRCUIT CLERK  
TENTH JUDICIAL CIRCUIT OF ILLINOIS

Now comes the City of Pekin, an Illinois Municipal Corporation, by Ronald L. Keyser, its Corporation Counsel, complaining of the Defendant, Frank Rosenberg, Inc., an Illinois Corporation, and for the issuance of a Mandatory Injunction and alleges:

1. That Plaintiff is an Illinois Municipal Corporation.
2. That Defendant is a corporation duly incorporated under the laws of the State of Illinois.
3. That attached hereto and incorporated by reference thereto as Plaintiff's Exhibit "A" is a true and correct copy of a Mandatory Injunction issued against the Plaintiff by this Court in cause #78-E-522 entitled, "PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, vs. CITY OF PEKIN, a municipal corporation, Defendant."

4. That the Defendant, Frank Rosenberg, Inc., is the owner of the real estate described in Paragraph Two of this injunction upon which the Plaintiff has been enjoined to cover all areas thereon in which refuse has been deposited by compacted layer of suitable material so as to provide a total of not less than two (2) feet of cover material on all said areas by July 1, 1980.

5. That Plaintiff has advertised for bids and has obtained a bid of R. A. Cullinan & Son, to carry out the work and furnish the materials on its behalf in order to comply with the injunction referred to in Paragraph Four above and which said bid was obtained on the 24th day of January, 1980, and which will expire

prior to May 1, 1980.

6. That on or about the 22nd day of February, 1965, Plaintiff and Defendant entered into a certain lease covering the premises described in said injunction, a copy of which lease is attached hereto and incorporated herein by reference thereto as Plaintiff's Exhibit "B" and which said lease allowed the Plaintiff to deposit waste and refuse upon said demised premises.

7. That pursuant to said lease, Plaintiff deposited waste and refuse upon said demised premises.

8. That Rule 305(c) of the Solid Waste Rules of the Illinois Environmental Protection Agency, requires said refuse and waste to be covered in the manner provided in said injunction.

9. That Defendant has filed suit in this Court in cause #75-L-1882, entitled, "FRANK ROSENBERG INC., an Illinois Corporation, Plaintiff, vs CITY OF PEKIN, a Municipal Corporation, Defendant," for damages against the Plaintiff herein for allegedly breaching the lease referred to in Paragraph Six above and one of the breaches is Plaintiff's alleged failure to allow the waste on said premises to be improperly covered.

10. That Plaintiff has repeatedly requested Defendant permission to enter onto said land to carry out the terms of said injunction by properly covering said waste in accordance therewith, but that Defendant has continually refused to give permission therefor.

11. That in the event Plaintiff is not permitted to enter onto Defendant's land for the purpose of complying with said injunction, said Defendant may be adjudicated in contempt of this Court for failure to comply therewith and Plaintiff will suffer irreparable harm and damage thereby.

12. That by Defendant failing to allow Plaintiff on said land to properly cover said waste, Defendant is allowing a continued violation of the Environmental Protection Agency regulation, established by Rule 305(c) of the Solid Waste Rules, requiring all areas in which refuse has been deposited to be covered by a

compacted layer of suitable material so as to provide a total of not less than two (2) feet of cover material on such areas and has thereby caused said waste, trash and garbage to remain uncovered so as to cause irreparable injury and harm to the public health, safety and welfare in that said uncovered waste, garbage and trash attract rodents and other disease carrying animals to the site thereof and disseminates a noxious odor therefrom and encourages trespassing on said premises and is otherwise detrimental to the public health, safety and welfare.

13. That the public interest require the proper covering of said trash, waste and garbage in compliance with said Environmental Protection Agency's Rule, wherefore Plaintiff prays that pending a final hearing on the merits herein, this Court grant Plaintiff a preliminary Mandatory Injunction requiring Defendant to allow Plaintiff to enter upon the above premises for the purpose of covering the trash, garbage and waste located thereon in accordance with the Mandatory Injunction heretofor directed to Plaintiff and that immediate hearing be set thereon.

Plaintiff further prays that upon the hearing on the merits herein, said injunction be made permanent. Plaintiff further prays for such other and further relief as may be appropriate herein.

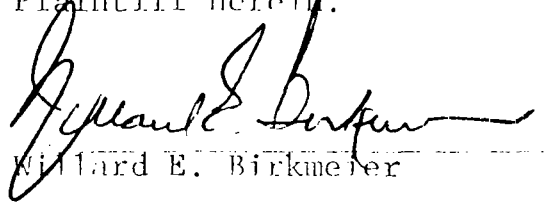
CITY OF PEKIN, an Illinois  
Municipal Corporation

By Ronald L. Keyser  
Ronald L. Keyser  
Its Corporation Counsel

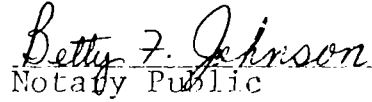
STATE OF ILLINOIS     )  
                                  )  
COUNTY OF TAZEWELL    )

The undersigned, Willard E. Birkmeier, having been first duly sworn on oath, deposes and says he has read the foregoing Complaint for Mandatory Injunction, and that he is familiar with the allegation of the fact therein contained and that said allegation of fact are true and correct and further states that he is the Mayor

of the City of Pekin, Illinois, the Plaintiff herein.

  
Willard E. Birkmeier

SUBSCRIBED and sworn to before me, a Notary Public, in and  
for said County of Tazewell, Illinois, this 21st day of March  
1980.

  
Notary Public

ELLIFF, KEYSER & HALLBERG  
4TH & BROADWAY BUILDING  
PEKIN, ILLINOIS 61554  
(309) 346-4148